GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	HB0636		**Title:**	Tax incentive to sell mobile home park to resident's group
Primary Sponsor:	Dickenson, Sue		**Status:**	As Introduced

- [ ] Significant Local Gov Impact
- [ ] Needs to be included in HB 2
- [x] Technical Concerns
- [ ] Included in the Executive Budget
- [ ] Significant Long-Term Impacts
- [ ] Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	($11,588)	($12,070)	($12,599)	($13,178)
State Special Revenue	($28)	($58)	($91)	($128)
Net Impact-General Fund Balance:	($11,588)	($12,070)	($12,599)	($13,178)

Description of fiscal impact: This bill reduces both income tax revenue and property tax revenue going to the general fund and reduces university system – state special revenue. There is an impact to local government revenue, via reduction in property taxes, in those localities where properties are purchased by exempt entities.

FISCAL ANALYSIS

Assumptions:

1. This bill excludes the gain from the sale of a mobile home park from taxable corporate income or taxable individual income if the sale was to a tenants' association or a mobile home park residents' association; a nonprofit organization that purchases a mobile home park on behalf of a tenants' association or mobile home park residents' association; a county housing authority; or a municipal housing authority.
2. Information from the commercial property databases indicate that the current average sales price of mobile home park property is $317,000.

Income Tax

3. Capital gains are taxed based upon the gain over the basis. These properties are Class 4 commercial property. The statewide percentage increase in Class 4 commercial property value in the most recent reappraisal was 34%, or an average annual gain of 5% (during the period from TY 2003 to TY 2009). In

the prior reappraisal, the average annual increase in Class 4 commercial property value was 2.87%. Industry information indicates that nationally the typical holding period for a mobile home park ranges from seven to ten years.

4. For purposes of this fiscal note it is assumed that the holding period is seven years and the gain would be on the basis of estimated purchase price in 2002. Using the average increases in commercial property values from the reappraisals, the estimated average purchase price would have been $203,215. Therefore the estimated average taxable gain was $113,785 (see table below for calculations).
5. For purposes of this fiscal note, it is assumed that mobile home parks are owned by individuals, S corporations, partnerships or other pass-through entities subject to personal income tax. The maximum tax rate for individual income tax is 6.9%; however, capital gains income is eligible for a 2% credit. Thus the net tax rate on income from capital gains is 4.9%.

Current Average		TY 2009 Reappraisal		2003 Average		Avg. TY 2003 Reappraisal		2002 Average	Capital Gain (Current - 2002)		Net Tax Rate		Tax Revenue
$317,000	-	$107,780	=	$209,220	-	$6,005	=	$203,215	$113,785	×	4.90%	=	$5,575

6. In the most recent year for which data is available, 19 mobile home parks were sold. If 10%, or 2 properties, were sold each year to eligible entities, the estimated cost to the general fund is $11,150 per year (2×$5,575).
7. This bill is effective upon passage and approval and applies to tax years beginning after December 31, 2008. The first tax year affected is tax year 2009. Most personal income tax returns are filed in the fiscal year following the tax year; therefore, the decrease in general fund revenue is expected in FY 2010 and subsequent years.

Property Tax

8. Properties owned by municipal and county housing authorities are usually eligible for a property tax exemption. If the property is sold to an entity that is eligible for a property tax exemption, the transaction reduces state and local property taxes. The average taxable value of the properties in assumption 7 was $4,367 in 2008. This fiscal note assumes these taxable values increase by 5% per year (see assumption 3).
9. The state collects 95 mills for the state general fund and 0.52 mills for the technical colleges, which is also deposited in the general fund, and 6 mills for the university system state special revenue fund. Multiplying these state mill levies by the average taxable value of $4,585 results in a loss of $438 to the general fund ($4,585 x (95.52 /1000) = $438) and a loss of $28 to the university system special revenue fund ($4,585 x (6/1000) = $28).
10. It is assumed one of the two properties from assumption 7 would become exempt from property tax each year. The following table shows the cumulative result of the exemption:

Tax Year	Number of Exempted Properties		Taxable Value		Total	General Fund Decrease	University Fund Decrease
2009	1	×	$4,585	=	$4,585	$438	$28
2010	2	×	$4,815	=	$9,629	$920	$58
2011	3	×	$5,055	=	$15,166	$1,449	$91
2012	4	×	$5,308	=	$21,232	$2,028	$127

11. This fiscal note assumes that this bill does not exempt recapture of depreciation from income tax.
12. Changes to tax forms required by this bill will be made as part of the annual update process with no additional costs to the Department of Revenue.

	Difference	Difference	Difference	Difference
Fiscal Impact:				
Revenues:				
General Fund (01)--Income Tax	($11,150)	($11,150)	($11,150)	($11,150)
General Fund (01)--Property Ta	($438)	($920)	($1,449)	($2,028)
State Special Revenue (02)	($28)	($58)	($91)	($128)
TOTAL Revenues	($11,616)	($12,128)	($12,690)	($13,306)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($11,588)	($12,070)	($12,599)	($13,178)
State Special Revenue (02)	($28)	($58)	($91)	($128)

Effect on County or Other Local Revenues or Expenditures:

1. Assuming these properties are assessed property taxes based upon the average statewide mill levy for commercial land - city/town lots of 642.48 mills - the calculated reduction in total property taxes is $2,946 for the first year ($4,585×642.48/1000). Subtracting the estimated $438 and $28 going to the state general and special revenue funds, leaves $2,480—the amount that local property tax revenues will be reduced the first year. The second year local property tax revenue will be reduced $5,209, the third year local revenue will be reduced by $8,221, and the fourth year local revenue will be reduced by $11,486. These are not generalized reductions to revenue for all local governments, but reductions in revenue in those localities where housing authorities or other exempt entities purchase mobile home park properties.

Technical Notes:

1. The language refers to the amount of the gain as “realized”. In this case, since the transaction includes an exchange as well as a sale, the appropriate term is “recognized”.
2. Section 1 references “gross corporate income” which should be changed to a “corporation’s gross income”. There is no current language in title 31 that refers to “gross corporate income”.
3. Section 1 indicates that a corporation, partnership, S. corporation, individual, or disregarded entity all qualify for this exclusion. Section 1 (1) refers to the computation of net income for corporations under that chapter (31). Individual taxpayers and owners of disregarded entities are not subject to taxation under chapter 31.
4. A tenants’ association or a mobile home park residents’ association is not defined in the bill. Currently the definition of a mobile home park is a trailer court with two or more spaces.
5. Section 2 amends 15-30-111, by adding a new deduction based on the language of Section 1. See comments above (realized gain vs. recognized gain; codification issue)
6. Section 3 also needs to include codification in chapter 30.

Sponsor’s Initials	*Date*	*Budget Director’s Initials*	*Date*